THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.

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SCHEDULE I.

BOMBAY ACT No. XX OF 1933.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.]

[*27th October 1933.*]

Amended by Bom. 3 of 1935.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.
Amended by Bom. 17 of 1945.*

An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay].

WHEREAS it is expedient to amend the [3]Presidency-towns Insolvency Act, III of 1909. 1909, in its application to [2][the Greater Bombay] for the purposes hereinafter 5 & 6 Geo. V, c. 61. appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1933.

(*2*) It extends to [2][the Greater Bombay] [4][and the town of Karachi].

Amendment of section 74 of Act III of 1909.

III of 1909. 2. In section 74 of the [3]Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay] [5][and the town of Karachi], hereinafter referred to as "the said Act" for the words "it, and also to pay out of his owner money interest thereon" the words "such dividend and interest thereon" shall be substituted.

Insertion of new section 77A in Act III of 1909.

3. After section 77 of the said Act, the following section shall be inserted, namely:—

Official Assignee to be corporation sole.

"77A. The Official Assignee shall be a corporation sole by the name of the Official Assignee of Bombay [6][or, the Official Assignee of Karachi, as the case may be], and as such Official Assignee shall have perpetual succession and an official seal and may sue and be sued in his corporate name and may do all acts necessary or expedient to be done in the execution of his office."

Amendment of section 82 of Act III of 1909.

4. For section 82 of the said Act, the following section shall be substituted, namely:—

Liability of Provincial Government

"82. The revenues of the [7][Provincial Government] shall be liable to make good all sums required to discharge any liability which the Official Assignee may be liable to discharge, except when such liability is one to which neither the Official Assignee nor any of his officers has in any way contributed or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted and in either of these cases the Official Assignee shall not, nor shall the revenues of the [7][Provincial Government], be subject to any liabilities."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp. 973-974; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] These words were substituted for the original by Bom. 17 of 1945 read with Bom. 52 of 1947, s. 2, proviso.

[3] *See* Central Acts.

[4] The words "and the town of Karachi" were inserted by Bom. 3 of 1935, s. 2 (*i*).

[5] The words "and the town of Karachi" were inserted, *ibid.*, s. 2 (*ii*).

[6] The words "or, the Official Assignee of Karachi, as the case may be" were inserted, *ibid.*, s. 2 (*iii*).

[7] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

* This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amendment of section 83 of Act III of 1909.

5. For section 83 of the said Act, the following section shall be substituted, namely :—

Description by which Official Assignee to be mentioned in suits or proceedings.

" 83. In all suits or proceedings by or against the Official Assignee, there shall be inserted after his official title, the description ' as assignee of the property of an insolvent (naming the particular insolvent) '. "

Amendment of section 112 of Act III of 1909.

6. In sub-section (*2*) of section 112 of the said Act:—

(*i*) for clause (*d*), the following clause shall be substituted, namely:—

[1]* * * * * * *

(*ii*) in clause (*f*), after the word " audit " the words " and inspection " shall be inserted ;

(*iii*) clause (*g*) shall be deleted ;

(*iv*) in clause (*h*), the words " out of the proceeds aforesaid " shall be deleted ; and

(*v*) to clause (*i*), the words " or otherwise in his official capacity " shall be added.

Insertion of a new section 121A in Act III of 1909.

7. After section 121 of the said Act, the following section shall be inserted, namely :—

Transfer of certain funds to Provincial Government.

" 121A. The sums and securities standing to the credit of—

[2][(*a*)] (*1*) the Unclaimed Dividend (Capital) Account less the sum of Rs. 50,000,

(*2*) the Unclaimed Dividend Revenue Account less the sum of Rs. 25,000,

(*3*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account less the sum of Rs. 20,000, and

(*4*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account,

with the High Court of Judicature, Bombay, [3][and

(*b*) (*1*) the Unclaimed Dividend (Capital) Account less the sum of Rs. 7,500,

(*2*) the Unclaimed Dividend (Revenue) Account less the sum of Rs. 3,000, and

(*3*) the Official Assignee's Fund, with the Court of the Judicial Commissioner of Sind,

are hereby transferred to the [4][Provincial Government] :

Provided that the revenues of the [4][Provincial Government] shall be liable to make good all sums required to meet the claims upon the said sums and securities of persons entitled thereto."

Amendment of section 122 of Act III of 1909.

8. In section 122 of the said Act—

(*i*) for the word " prescribed " the words " determined by the [4][Provincial Government] " shall be substituted ; and

(*ii*) for the words " the Government of India ", the words " [4][Provincial Government] " shall be substituted.

Amendment of section 123 of Act III of 1909.

9. In section 123 of the said Act, for the words " Government of India " where they occur at both the places and for the words " Governor General in Council " the words " [4][Provincial Government] " shall be substituted.

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[1] Clause (*d*) was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[2] This letter and brackets were inserted by Bom. 3 of 1935, s. 2 (*iv*).

[3] These words, letter, figures and brackets were substituted for the words " are hereby transferred to the Local Government " by Bom. 3 of 1935, s. 2 (*iv*).

[4] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

10. After section 123 of the said Act, the following sections shall be inserted, namely :— Insertion of new sections 123A and 123B in Act, III of 1909.

"123A. The [1][Provincial Government] may, [2][out of sums and securities standing to the credit of the accounts of the Official Assignee, Bombay, specified in clauses (*1*) and (*2*)] from time to time after consultation with the High Court of Judicature, Bombay,— Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts 2[relating to the office of the Official Assignee, Bombay].

(*1*) determine the amount to be set apart out of—

(*i*) the Unclaimed Dividend (Capital) Account, and

(*ii*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account,

for meeting the claims of creditors or debtors made within the period specified in section 122, and

(*2*) transfer sums to the revenues of the [1][Provincial Government] from—

(*i*) the Unclaimed Dividend (Capital) Account,

(*ii*) the Unclaimed Dividend Revenue Account,

(*iii*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account, and

(*iv*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account."

"[3][123B. The [1][Provincial Government] may out of the sums and securities standing to the credit of the accounts of the Official Assignee, Karachi, specified in clauses (*1*) and (*2*) from time to time after consultation with the Court of the Judicial Commissioner of Sind, Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts relating to the office of the Official Assignee, Karachi.

(*1*) determine the amount to be set apart out of the Unclaimed Dividend (Capital) Account, for meeting the claims of creditors or debtors made within the period specified in section 122, and

(*2*) transfer sums to the revenues of the [1][Provincial Government] from—

(*i*) the Unclaimed Dividend (Capital), Account,

(*ii*) the Unclaimed Dividend (Revenue) Account, and

(*iii*) the Official Assignee's Fund]. "

11. The provisions of the said Act specified in Schedule I hereto annexed shall be repealed. Repeal.

SCHEDULE I.

(*Provisions repealed.*)

(Section 11.)

Sections 61, 68 (*2*), 84 and 87 (*3*).

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, figures and brackets were inserted by Bom. 3 of 1935, s. 2 (*v*) (*1*).

[3] Section 123B was added by Bom. 3 of 1935, s. 2 (*v*) (*3*).